Supreme Court, U.S.
FILED
06-565 AUG 7 - 2006
OFFICE OF THE CLERK

(2)

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

In re ANDREW J. JOHNSON

APPENDIX TO PETITION FOR AN EXTRAORDINARY WRIT OF HABEAS CORPUS OF JOHNSON VOLUME II

Andrew J. Johnson # 15223
P.O. Box 877
Haskell, TX 97521

MR. ANDREW J. JOHNSON
Prison No. 15223
P.O. Box 877
Haskell, TX 79521

STATE OF WYOMING) IN THE DISTRICT COURT
) ss.
COUNTY OF LARAMIE) FIRST JUDICIAL DISTRICT

Docket No. 19-373

FILED
JAN 09 2006
GERRIE E. BISHOP
CLERK OF THE DISTRICT COURT

ANDREW J. JOHNSON,)
)
Petitioner,)
)
v.) PETITION FOR WRIT OF
) HABEAS CORPUS RELIEF
JILL WATSON,) Pursuant to §1-27-101 ET SE
Warden, Rolling Plains) SEQ. WYO. STAT (2006)AS
Regional Detention) AMENDED
Center; ROBERT O.)
LAMPERT Director)
Wyoming Department of)
Corrections; and)
PATRICK CRANK,)
Wyoming Attorney)
General,)
)
Respondents.)

"Appendix D."

(i) I, Andrew J. Johnson for whom the writ is sought is restrained of his liberty, by Mrs. Jill Watson, and is restrained in the State of Texas at the Rolling Plains Regional Detention Center. The parties are Mrs. Jill Watson, Warden of the Rolling Plains Regional Detention Center; Mr. Robert O. Lampert, Director of the Wyoming Department of Corrections and Mr Patrick Crank, Wyoming Attorney General.

(ii) The cause/reason for the restrain according to the best information of the petitioner a follows:

On June 11, 1989, Laurie L. Slagle, gave he statement to the Cheyenne Police Officers that th petitioner had broken into her home ad sexual assaul her. The petitioner was arrested on June 11, 1989.

On June 11, 1989, Jalene A. Griffin, Forensic Serologist of the State Crime Laboratory received from Dean Kolkman of the Cheyenne Police Department, two sexual assault-biological evidence kits of Laurie Slagle and petitioner.

On June 14, 1989, the County Court appointed counsel, David Serelson, Assistant Public Defendant, to represent the petitioner. See (A copy of the County Court Transcript) Annexed.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of the petitioner and reported her finding of antigens in whole blood samples of the petitioner (Item 2). See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 2) Annexed.

On July 7, 1989, Jalene A. Griffin performed the

test on the sexual assault-biological evidence kit o Laurie Slagle and reported her finding of the presence o spermatozoa and MHS-5 antigens in the vaginal sample of Laurie Slagle (Item 1) indicated that seminal fluid wa present. An ABO type was not determined on th vaginal samples (Item 1). See (A copy of the DCI Repor by Jalene A. Griffin, p. 1¶ 3) Annexed.

On August 2, 1989, David Serelson, attorney fo petitioner, received a copy of Jalene A. Griffin, Forensi Serologist of the State Crime Laboratory report fron Jon R. Forwood, Deputy District Attorney, Larami County of Griffin's finding of the presence o spermatozoa and MHS-5 antigens in the vaginal sample of Laurie Slagle (Item 1) indicated that seminal fluid wa present. An AO type was not determined on the vagina samples (Item 1). See (A copy of the DCI Report b Jalene A. Griffin p. 1 ¶ 3) Annexed.

On September 27, 1989, the Jury convicted petitioner base upon the sexual assault-biological kit of Laurie Slagle State's Exhibit No. 2.

On October 25, 1989, Petitioner was sentence to the Wyoming State Penitentiary. See (A copy of the Judgment and Sentence of the Court) Annexed.

The petitioner timely appealed the conviction to the Wyoming Supreme Court. On March 4, 1991, the Wyoming Supreme Court affirmed the conviction. See State v. Johnson, 806 P.2d 1282 (Wyo. 1991).

(iii) The restraint is illegal; due to the District Court for First judicial District, Laramie County lack of jurisdiction over the subject matter, and authority to render the particular judgment which resulted in a substantial denial of petitioner's right under the Constitution of the United States and of the State of

Wyoming, specifically Art. 1 § 6 and the Fourteenth Amendment to the Constitution of the United States, Petitioner state as follows:

The language of the 14th Amendment to the United States Constitution and of rt. 1 § 6, Wyoming Constitution, is unequivocal and clear. Both declare that no person shall be deprived of life, 'liberty' or property without due process of law. Holm v. State, 404 P.2d 740, 742 (Wyo. 1965).

In a habeas corpus where questions that have been at all passed upon by courts are involved the province of the proceedings is to inquire only into jurisdiction matter, and the habeas corpus proceeding cannot be used to take the place simply of proceeding in error. This has been passed upon in several cases by the Wyoming Supreme Court. See Fisher v. McDaniel, 9 Wyo. 457, 64 P. 1056, 87. Am St. Rep. 971; Young v.

Hehm, 12 Wyo. 289, 75 P.443, 109 Am. St. Rep. 986; Miskinnins v. Shaver, 8 Wyo. 392, 58 P. 411, 49 L.R.A. 831.

in the last mentioned case, in the opinion by Judge Corn, on pages 408 and 409 0f 8 Wyo., on page 415 of 58 P. (49 L.R.A 831), he reviews authorities and states the distinction and what the province of a writ of habeas corpus in cases of this kind is, to the effect that only the jurisdiction of the person and subject matter are to be considered, but as whether the court had authority to render the particular judgment or to make the particular order complained of in the proceedings, and quotes Brown on jurisdiction with approval as to what are the three essential elements necessary to render a judgment or order valid as to jurisdiction, so that it will withstand the test by habeas corpus:

> "These are that the court must have jurisdiction over the subject-matter, the person of the defendant, and

authority to render the particular judgment. If either of these element are locking, the judgment is fatally defective."

See. Ex parte Madson, 25 Wyo. 338, 169 P. 336 (Wyo. 1917).

The Petitioner, Andrew J. Johnson (herein after Johnson), dose present to this Court, that it is Johnson's contention that the District Court for First judicial District, Laramie County, lacked sufficient jurisdiction over the subject-matter and authority to render the particular judgment in the proceeding in State v. Johnson Wyoming District Court, First Judicial District, Docket No. 19-373.

On June 11, 1989, Laurie Slagle, gave her statement to the Cheyenne Police Officers that Johnson had broken into her home and sexual assault her. Johnson was arrested on June 11, 1989.

on June 11, 1989, Jalene A. Griffin, Forensic Serologist of the State Crime Laboratory received from Dean Kolkmam of the Cheyenne Police Department, two(2) sexual assault-biological kits of Laurie Slagle and petitioner.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of the petitioner and reported her finding of antigens in whole blood samples of the petitioner (Item 2). See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 2) Annexed.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of Laurie Slagle and reported her finding of the presence of spermatozoa and MHS-5 antigens in the vaginal samples of Laurie Slagle (Item 1) indicated that seminal fluid was

present. An ABO type was not determined on the vaginal samples (Item 1). See (A copy of the DCI Report by Jalene A. Griffin, p. 1¶ 3) Annexed.

Johnson's ABO type was not determined on the vaginal samples (Item 1) of the sexual assault-biological evidence kit of Laurie Slagle. See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 3) Annexed.

In this case the trial court had exceeded its jurisdiction over the subject-matter, the person Johnson, and authority to render the particular judgment.

(iv) The legality of the restraint of Johnson has not been adjudge in a prior proceeding, of the same character, to the best of the knowledge and belief of Johnson.

(v) In the present case, the issue, which is being raised in this petition for writ, has not been made to or refused by any court or judge.

(vi) Johnson brings this petition for writ of habeas corpus before this Court for the following reasons:

(a) Johnson is no longer in the physical jurisdiction of the State of Wyoming and is now being housed in the State of Texas at the Rolling plains Regional Detention Center.

(b) Johnson is no longer in the physical jurisdiction of the Second Judicial District, County of Carbon, State of Wyoming.

(c) This Court is the court or judge must convenient in a point of distance from the State of Texas for Johnson.

WHEREFORE, Petitioner prays that the court grants such relief as he may be entitled to in this proceeding.

s/ Andrew J. Johnson

VERIFICATION

I, Andrew J. Johnson, being duly sworn and say that he is the petitioner in the above action, that he has read the above pleading and that the information contained therein is true and correct. Wyo. Stat. § 1-27-102.

Executed at Haskell, TX 79521 on January 5th, 2006.

s/ Andrew J. Johnson

STATE OF TEXAS)
) ss.
COUNTY OF HASKELL)

Sworn to before me this 5 day of January 20 06.

[Notary Seal Stamp]

s/ Katharine Lozano
NOTARY PUBLIC

Mr. Andrew J. Johnson
Prison No. 15223
P.O. Box 877
Haskell, TX 79521

FILED
JAN 31 2006
GERRIE E. BISHPO
CLERK OF THE DISTRICT COURT

STATE OF WYOMING) IN THE DISTRICT COURT
) ss.
COUNTY OF LARAMIE)FIRST JUDICIAL DISTRICT

ANDREW J. JOHNSON,
Petitioner,
v.
JILL WATSON, Warden Rolling Plains Regional Center; ROBERT O. LAMPERT, Director Wyoming Department of Corrections; and PATRICK CRANK, Wyoming Attorney General,
Respondents.

) Docket No. 19-373

REQUEST FOR SERVICE BY ANOTHER PERSON

COME NOW Petitioner, Andrew J. Johnson, pro se and respectfully moves the court for an Order of Service by "Appendix E."

another person, namely Jennifer Strickland, Case Manger-Wyoming State Inmates in Haskell, Texas, for reason stated by David Halliburton, Sheriff Haskell Court, Texas; See (A copy of letter) Annexed; on the petitioner's petition for habeas corpus relief pursuant to W.S. § 1-27-101 filed on January 9, 2006.

DATED this 26th day of January 2006.

s/ Andrew J. Johnson
ANDERW J. JOHNSON
Pro Se
P.O. Box 877
Haskell, TX 79521

HASKELL COURT SHERIFF'S DEPARTMENT
P.O. Box 675, Haskell, TX 795212

[The State of Texas]
Seal Stamp

DAVID HALLIBURTON
SHERIFF

January 23, 2006

Mr. Andrew J. Johnson
Prison No. 15223
Post Office Box 877
Haskell, Texas 7524

Dear Mr. Johnson,

I received your letter by mail on January 20, 2005, in reference to serving a writ on the Warden at Rolling plains jail. I am sorry to tell you that I can't serve this writ. Under Texas law the Sheriff is not required to serve this type of writs. If you want the Warden served you can hand it to her yourself or send it by certified mail as you did to me.

I am returning your writ to you along with your money order.

Sincerely,
s/ David Halliburton
David Halliburton, Sheriff Haskell County, Texas

IN THE SUPREME COURT
STATE OF WYOMING
FILED
MAY – 1 2006
JP
JUDY PACHECO, CLERK

Mr. Andrew J. Johnson
Prison No. 15223
P.O. Box 877
Haskell, TX 7521

IN THE SUPREME COURT, STATE OF WYOMING

ANDREW J. JOHNSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No. 06-97**
	)	
JILL WATSON, Warden, Rolling Plains Regional Detention Center; ROBERT O. LAMPERT, Director Wyoming Department of Corrections; and PATRICK CRANK, Wyoming Attorney General,	)	
	)	
Respondents.	)	

Petition for Writ of Habeas Corpus

COME NOW, Andrew J. Johnson for whom the

return of Patrick Crank; Attorney General, State of Wyoming to the writ of habeas corpus herein alleges and respectfully shows:

1. Andrew J. Johnson denied the Respondent's return that he fails to state a cognizable claim.

2. And, further replying to said return, said Andrew J. Johnson alleges that this Court has consistently held that habeas corpus is a narrowly restricted form of relief from illegal restraint, and the only issue presented is whether the trial court has exceeded its jurisdiction. State, ex rel Hopinson v. District Court, 696 P. 2d 54, 60 (Wyo. 1985), cert denied 474 U.S. 865; Hollibaugh v. Hehn, 13 Wyo. 296, 273, 79 P. 1044 (1904). The only facts to be considered by the reviewing court are "jurisdictional facts". Miskimmins vs. Shaver, 8 Wyo. 392, 408, 58 P. 411 (1899). These

"jurisdictional facts" are those that relate to jurisdiction of the subject matter and of the person, and to the court's power to render the particular judgment in question. Hovery vs. Sheffiner, 16 Wyo. 254, 264, 93 P. 305 (1908).

Mr. Johnson's petition, on its face, set forth a claim upon which upon which relief can be granted.

3. The accuser (Laurie Slagle) gave her testimony and identification of the petitioner as the person who had broke into her home and sexually assaulted her. See (A copy of the State v. Johnson Wyoming District Court First Judicial District, Docket No. 19-373; Transcript of Proceeding Jury Trial September 25, 26, and 27, 1989, pp. 146-151. Annexed.

Jalene A. Griffin, state's expert witness forensic serologist of the state crime laboratory, testified about her report. See (A copy of the State v. Johnson Wyoming District Court First Judicial District, Docket

Come Now, Andrew J. Johnson, pro se, to submitted this memorandum in support of petition for a writ of habeas corpus

I. Issue Presented

Did the District Court for the First Judicial District, Laramie County lack jurisdiction over the subject matter and authority to render the particular judgment.

II. Issue Presented

Did the judge, acted individually and as a member of the court wrongful and willfully in disallowing the writ when it was properly applied.

III. Procedural History

On June 11, 1989, Laurie L. Slagle, gave her statement to the Cheyenne Police Officers that the petitioner had broken into her home ad sexual assault her. The petitioner was arrested on June 11, 1989. On June 11, 1989, Jalene A. Griffin, Forensic Serologist of the State Crime Laboratory received from Dean Kolkman of the Cheyenne Police Department, two

sexual assault-biological evidence kits of Laurie Slagle and petitioner.

On June 14, 1989, the County Court appointed counsel, David Serelson, Assistant Public Defendant, to represent the petitioner. See (A copy of the County Court Transcript) Annexed.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of the petitioner and reported her finding of antigens in whole blood samples of the petitioner (Item 2). See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 2) Annexed.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of Laurie Slagle and reported her finding of the presence of spermatozoa and MHS-5 antigens in the vaginal samples of Laurie Slagle (Item 1) indicated that seminal fluid was

present. An ABO type was not determined on the vaginal samples (Item 1). See (A copy of the DCI Report by Jalene A. Griffin, p. 1¶ 3) Annexed.

On August 2, 1989, David Serelson, attorney for petitioner, received a copy of Jalene A. Griffin, Forensic Serologist of the State Crime Laboratory report from Jon R. Forwood, Deputy District Attorney, Laramie County of Griffin's finding of the presence of spermatozoa and MHS-5 antigens in the vaginal samples of Laurie Slagle (Item 1) indicated that seminal fluid was present. An AO type was not determined on the vaginal samples (Item 1). See (A copy of the DCI Report by Jalene A. Griffin p. 1 ¶ 3) Annexed.

On September 27, 1989, the Jury convicted petitioner base upon the sexual assault-biological kit of Laurie Slagle State's Exhibit No. 2

On October 25, 1989, Petitioner was sentence to the Wyoming State Penitentiary. See (A copy of the Judgment and Sentence of the Court) Annexed.

The petitioner timely appealed the conviction to the Wyoming Supreme Court. On March 4, 1991, the Wyoming Supreme Court affirmed the conviction. See State v. Johnson, 806 P.2d 1282 (Wyo. 1991).

On January 9, 2006, Petitioner filed a petition for writ of habeas corpus relief. See (A copy of the Petition for Writ of Habeas Corpus Relief) Annexed.

On January 31, 2006, Petitioner filed a request for service by another person. See (A copy of the Request for Service by Another Person) Annexed.

On March 23, 2006, the District Court for the First Judicial District, Laramie County, dismissed the writ of habeas. See (A certified copy of the Order Dismissing Petition for Habeas Corpus Relief and

Request for Service by Another Person) Annexed.

IV. Procedural Thresholds

The Constitutions of the United Stats and of the State of Wyoming, specifically Art. 1. § 6 and the Fourteenth Amendment to the Constitution of the United States.

V. Relief Sought

Petitioner rays that the court grant this writ and cause it to be issue though no Application has been made. Wyo. Stat. § 1-27-109.

VI. Argument I

The District Court for the First Judicial District, Laramie County lack of jurisdiction over the subject matter, and authority to render the particular judgment which resulted in a substantial denial of petitioner's right under the Constitution of the United States and the State of Wyoming, specifically Art. 1. § 6 and the Fourteenth

Amendment to the Constitution of the United States, Petitioner state as follows:

The Language of the 14th Amendment to the United States Constitution and Art. 1. § 6, Wyoming Constitution, is unequivocal and clear. Both declare that no person shall be deprived of life, 'liberty' or property without due process of law. Holm v. State, 404 P. 2d 740, 742 (Wyo. 1965).

In a habeas corpus where questions that have been at all passed upon by courts are involved the province of the proceeding is to inquire only into jurisdiction matter, and the habeas corpus proceeding cannot be used to take the place simply of proceeding in error. This has been passed upon in several cases by the Wyoming Supreme Court. See

Fisher v. McDaniel, 9 Wyo. 457, 64 P. 1056, 87. Am St. Rep. 971; Younger v. Hehm, 12 Wyo. 289, 75 P. 443, 109

Am. St. Rep. 986; Moskinnins v. Shaver, 8 Wyo. 392, 58 P. 411, 49 L.R.A. 831.

In the last mentioned case, in the opinion by Judge Corn, on page 408 and 409 of 8 Wyo., on page 415 of 58 P. (49 A.L.R.A. 831), he reviews authorities and states the distinction and what the province of a writ of a habeas corpus incases of this kind is, to the effect that only the jurisdiction of the person and subject matter are to be considered, but as whether the court had authority to render the particular judgment or to make the particular order complained of in the proceedings, and quotes Brown on jurisdiction with approval as to what are the three essential elements necessary to render a judgment or order valid as to jurisdiction, so that it will withstand the test by habeas corpus:

> "These are that the court must have jurisdiction over the subject-matter, the person of the defendant, and authority to render the particular judgment. If either of these element

are locking, the judgment is fatally defective."

See. Ex parte Madson, 25 Wyo. 338, 169 P. 336 (Wyo. 1917).

The Petitioner, Andrew J. Johnson (herein after Johnson), dose present to this Court, that it is Johnson's contention that the District Court for First judicial District, Laramie County, lacked sufficient jurisdiction over the subject-matter and authority to render the particular judgment in the proceeding in State v. Johnson Wyoming District Court, First Judicial District, Docket No. 19-373.

On June 11, 1989, Laurie Slagle, gave her statement to the Cheyenne Police Officers that Johnson had broken into her home and sexual assault her. Johnson was arrested on June 11, 1989.

on June 11, 1989, Jalene A. Griffin, Forensic

Serologist of the State Crime Laboratory received from Dean Kolkmam of the Cheyenne Police Department, two(2) sexual assault-biological kits of Laurie Slagle and petitioner.

On July 7, 1989, Jalene A. Griffin performed the test on the sexual assault-biological evidence kit of the petitioner and reported her finding of antigens in whole blood samples of the petitioner (Item 2). See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 2) Annexed.

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vaginal samples (Item 1). See (A copy of the DCI Report by Jalene A. Griffin, p. 1¶ 3) Annexed.

Johnson's ABO type was not determined on the vaginal samples (Item 1) of the sexual assault-biological evidence kit of Laurie Slagle. See (A copy of the DCI Lab Report by Jalene A. Griffin, p. 1 ¶ 3) Annexed.

In this case the trial court had exceeded its jurisdiction over the subject-matter, the person Johnson, and authority to render the particular judgment.

VII. Argument II

The judge, acted individually and as a member of the court wrongfully and willfully in disallowing the writ when it was properly applied.

The instant petition impermissibly question (jurisdiction fact) rather than assailing that the District Court lacks jurisdiction since Petitioner is no longer in physical jurisdiction of the State of Wyoming.

VIII. Conclusion

The District Court for the First Judicial District, Laramie County lack of jurisdiction over the subject matte, and authority to render the particular judgment. The judge, acted individually and as a member of a court wrongfully and willfully in disallowing the writ when it was properly applied.

RESPECTFULLY SUBMITTED April 26th, 2006.

s/ Andrew J. Johnson
Andrew J. Johnson
Pro se
P.O. Box 877
Haskell, TX 795212

IN THE SUPREME COURT

STATE OF WYOMING

ANDREW J. JOHNSON,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**Docket No.** 06-97
	)	
JILL WATSON, Warden, Rolling Plains Regional Detention Center; ROBERT O. LAMPERT, Director, Wyoming Dept. of Corrections; and PATRICK CRANK, Wyoming Attorney General,	)	
	)	
Respondents.	)	

MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

Respondents, by and though the Office of the Wyoming Attorney General, move this court for its Order dismissing Petitioner's Petition for Writ of Habeas Corpus

"Appendix G."

because the petition fails to state a claim upon which this court may grant habeas corpus relief. In support of this motion, Respondent show as follows:

State-law habeas corpus relief is available to Mr. Johnson only to challenge the trial court's jurisdiction. State ex rel. Hopkinson v. District Court, 696 P.2d 54, 60 (Wyo. 1985). Mr. Johnson's petition does not state a challenge to the trial court's jurisdiction. Although he contends his claims are jurisdictional, they are not. Mere error of law or irregularities in a criminal case – even those of a constitutional magnitude – are not proper grounds for habeas corpus relief. Only issues that concern the jurisdiction of the court are proper.

"Habeas corpus is not permissible to question the correctness of the action of a grand jury in finding a bill of indictment, or a petit jury in the trial of cause nor of a court or judge when acting within their jurisdiction and in a lawful manner." Hopinson v. State, 798 P.2d 1186, 1188 (Wyo. 1990).

Jurisdiction claims involve the very power of the State to bring the defendant into court. Zanetti v. State, 783 P.2d 134, 139 (Wyo. 1989). This Court cannot address such constitutional claims in the context of a petition for habeas corpus. Accordingly, the petition fails to state a cognizable claim, and Respondent respectfully asks this Court to dismiss it.

Submitted this 9th day of May, 2006

s/ David L. Delicath
David L. Delicath
Senior Assistant Attorney General
123 State Capitol Building
Cheyenne, Wyoming 82002
(307) 777-7977

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS, upon the hereinafter named person by depositing the same in the United States Mail, postage prepaid, this 9th day of May, 2006, addressed as follows:

Andrew J. Johnson
No. 15223
P.O. Box 877
Haskell, TX 79521

s/ Anthony Spencer
Office of the Attorney General

RECEIVED
5-22-06
WYOMING SUPREME COURT

Mr. Andrew J. Johnson
Prison No. 15223
P.O. Box 877
Haskell, TX 79521

IN THE SUPREME COURT, STATE OF WYOMING

ANDREW J. JOHNSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No. 06-97**
	)	
JILL WATSON, Warden Rolling Plains Regional Detention center; ROBERT O. LAMPERT, Director Wyoming Department of Corrections; and PATRICK CRANK, Wyoming Attorney General,	)	
	)	
Respondents.	)	

REPLY, PETITION
FOR WRIT OF HABEAS CORPUS

Andrew J. Johnson, pro se by this reply to the

"Appendix H."

writ is sought is restrained of his liberty, by Mrs. Jill Watson, and is restrained in the State of Texas at the Rolling Plains Detention Center. The parties are Mrs. Jill Watson, Warden of Rolling Plains Regional Detention Center; Mr. Robert O. Lampert, Director of the Wyoming Department of Corrections and Mr. Patrick Crank, Wyoming Attorney General.

For the reason present in his memorandum in support of the petition, Mr. Andrew J. Johnson, respectfully Submitted this 26th day of April, 2006.

Attorney for Movant:

s/ Andrew J. Johnson
Andrew J. Johnson
Pro se
P.O. Box 877
Haskell, TX 79521

IN THE SUPREME COURT
STATE OF WYOMING
FILED
MAY – 1 2006
JP
JUDY PACHECO, CLERK

Mr. Andrew J. Johnson
Prison No. 15223
P.O. Box 877
Haskell, TX 7521

IN THE SUPREME COURT, STATE OF WYOMING

ANDREW J. JOHNSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No. 06-97**
	)	
JILL WATSON, Warden, Rolling Plains Regional Detention Center; ROBERT O. LAMPERT, Director Wyoming Department of Corrections; and PATRICK CRANK, Wyoming Attorney General,	)	
	)	
Respondents.	)	

Memorandum in Support of
Petition for Writ of Habeas Corpus

No. 19-373; Transcript of Proceeding Jury Trial September 25, 26, and 27, 1989, p. 235) (Annexed). In her report, she reported of finding of seminal fluid was present and an ABO type was not determined on vaginal samples (Item 1) of Laurie Slagle. See (A copy of the DCI Lab Report by Jalene A. Griffin) Annexed.

Since no ABO type was determined on seminal fluid on the biological evidence kit of Laurie Slagle as State's Exhibit No. 2. There is no evidence that indicate Andrew J. Johnson as the person who had broke into her home and sexually assaulted her.

WHEREFORE, Andrew J. Johnson prays that said writ be sustained and that he be discharged immediately.

s/ Andrew J. Johnson
Andrew J. Johnson
Pro se

VERIFICATION

I, Andrew J. Johnson, being duly sworn deposes and say that he is the petitioner in the above action, that he has read the above pleading and that the information contained therein is true and correct. Wyo. Stat. § 1-27-102.

Executed at Haskell, TX 79521 on May 15th, 2006.

s/ Andrew J. Johnson

STATE OF TEXAS)
) ss.
COUNTY OF HASKELL)

Sworn to before me this 15 day of May, 20 06.

[Notary Seal Stamp] s/ Diana Simmons
Notary Public

CERTIFICATE OF SERVICE

I, hereby certify that a copy of the foregoing **REPLY, PETITION FOR WRIT OF HABEAS CORPUS** was mailed to Mr. David L. Delicath, Senior Attorney General of opposing party or party's attorney at 123 State Capitol Building, Cheyenne, Wyoming 82002 on this day 15th of May, 2006.

s/ Andrew J. Johnson
ANDREW J. JOHNSON
Pro se

Supreme Court of Wyoming

Office of the clerk

[Wyoming Supreme Court Seal Stamp]

JUDY PACHECO, CLERK
CAROL THOMPSON, DEPUTY
307-777-7316

SUPREME COURT BUILDING
2301 CAPITOL AVENUE
CHEYENNE, WY 82002

May 24, 2006

Andrew J. Johnson #15223
P.O. Box 877
Haskell, TX 79521

Re: Case No. 06-97

Dear Mr. Johnson:

Your reply to the State of Wyoming's motion to dismiss petition for writ of habeas corpus was received in this office on May 22, 2006. Your reply was presented to the Court today, and it was determined that it would not have changed the outcome of your petition. Therefore, the order denying petition for writ of habeas corpus filed on May 16, 2006, stands as the Court's decision in this matter.

Sincerely,
s/ Judy Pacheco

jp

"Appendix I."

Christpher A. Crofts
Director
THOMAS J. PAGEL
Deputy Director

OFFICE OF THE
ATTORNEY GENERAL
DIVISION OF CRIMINAL INVESTIGATION
316 W. 22ND STREET CHEYENNE, WYOMING 82002-0001

MIKE SULLIVAN
Governor
JOSEPH B. MEYER
Attorney General

ADMINISTRATION
(307) 777-7181
INVESTIGATION
(307) 777-7182
CRIME LABORATORY
(307) 777-7607
CRIMINAL INTELLIGENCE
(307) 777-7184
CRIMINAL JUSTICE INFORMATION
(307) 777-7523
(307) 777-7545 (Telecom)

July 7, 1989

Dean Kolkman
Cheyenne Police Department
2020 Capitol Avenue
Cheyenne, Wyoming 82001

LABORATORY CASE NO.: 89L0649
CHEYENNE PD CASE NO.: 89-55912

ITEMS EXAMINED

1. One (1) Sexual Assault/Biological Evidence kit (B4727 #5)
2. One (1) Sexual Assault/Biological Evidence kit (B4304 #301)

RESULTS OF EXAMINATION

ABO type O and Lewis type a+b- blood group antigens and PGM subtype 2+1 isoenzymes were identified in the whole blood samples of Laurie Slagle (Item 1). Persons exhibiting this Lewis type are referred to as non-secretors.

"Appendix J."

ABO type B and Lewis type a+b- blood group antigens and PGM subtype 2+1 isoenzymes were identified in the whole blood samples of Andrew Johnson (Item 2). An ABO type was not determined in the saliva sample of Andrew Johnson (Item 2). Person exhibiting this Lewis type and having no detectable blood group antigens in their saliva samples are referred to as non-secretors.

The presence of spermatozoa and MHS- 5 antigens in the vaginal samples of Laurie Slagle (Item 1) indicated that seminal fluid was present. An ABO type was not determined on the vaginal samples (Item 1).

DISPOSITION OF EVIDENCE

Items 1 and 2 will be returned to the submitted agency.

s/ Jalene A. Griffin
Jalene A. Griffin
Forensic Scientist

JAG/nmb

Reviewed: s/ RRC

[Wyoming State Stamp]

WYOMING STATE
ON 8-2-89 AT _____
[ ] A COPY OF [√] ME . . .
THIS DO . . . [ ]
[√] CERTIFIED [ ] . . .
[ ] . . .
s/ Kolkman

WYOMING STATE
ON 8-2-89 AT _____
[√] A COPY OF [ ] ME . . .
THIS DO . . . [ ]
[√] CERTIFIED [ ] . . . [ ] . . .
s/ Forwood

STATE OF WYOMING) IN THE DISTRICT COURT
) ss.
LARAMIE COUNTY) FIRST JUDICIAL DISTRICT

THE STATE OF WYOMING,)
)
Plaintiff,)
vs.) Doc. 19-373
)
ANDREW J. JOHNSON,) FILED
) FEB 20, 1989
Defendant.) Gerrie E. Bishop
Clerk of the District

TRANSCRIPT OF PROCEEDINGS

Jury Trial September 25, 26, and 27, 1989.

The Honorable Nicholas G. Kalokathis, Judge, presiding.

Appearances:

For the State: Jon R. Forwood
Deputy District Attorney

For the Defendant: David L. Serelson
Assistant Public Defender
Cheyenne, Wyoming

Carol Serelson
Attorney at Law
Cheyenne, Wyoming

"Appendix K."

Sentencing Proceedings, October 20, 1989:
The Honorable Nicholas G. Kalokathis, Judge, presiding.

Appearances:

For the State:	Jon R. Forwood Deputy District Attorney
For the Defendant:	David L. Serelson Assistant Public Defender Cheyenne, Wyoming

Q. What were your findings in that examination?
A. As I say in my report, I did find the presence of spermatozoa and seminal fluid in the vaginal swabs.
Q. Now, were you able to identify the blood type?
A. No.
Q. Why not?
A. I did not get a blood type.
Q. And why is it that you did not get a blood type?
A. Either -- there could be two reasons behind that. Either the person isn't a -- the depositor of the seminal fluid is not a non-secretor, or there are time when you just cannot get a type off of a sample.
Q. So that --
A. But it is from a non-secretor status, thought. So you are not getting a blood type out of this.
Q. You didn't get a blood type out of the seminal fluid because it was a non-secretor?
A. A non-secretor, right. I would -- how should I state this – assume not to get a blood type since she was a a non-secretor and he is a non-secretor.
Q. So you did not expect to get a blood type?

A. I did not, not with the evidence that was submitted.

Q. Now, is it then possible to include or exclude Mr. Johnson as the person who left the seminal fluid that

STATE OF WYOMING)
)
COUNTY OF LARAMIE)

I, James E. Grigsby, official court reporter, hereby certify that the foregoing tgranscript of proceedings is a true and correct transcription of my stenographic notes taken on the date indicated.

Date this 18th day of February 1990.

s/ James E. Grigsby

STATE OF WYOMING) IN THE COUNTY COURT
) -ss OF LARAMIE COUNTY
COUNTY OF LARAMIE) CHEYENNE, WYOMING

BEFORE
JUDGE ROBERT W. ALLEN

19-373

STATE OF WYOMING
PLAINTIFF

VS DOCKET CR-8906 PAGE 0037

ANDREW J. JOHNSON
DEFENDANT

FILED
JUN 29, 1989

TRANSCRIPT

GERRIE E. BISHOP
CLERK DISTRICT COURT

JUNE 14, 1989 The Complaint was filed and a warrant was issued for the alleged violation of W.S. 6-3301(c) (ii)-Count 1, W.S. 6-2-302(a) (i)-Count 2.

JUNE 14, 1989 The defendant was present in court and advised of his constitutional rights The complaint was distinctly read to the defendant. The state was represented by Jon R. Forwood. The defendant requested that an attorney be appointed to represent him/her, the request was granted and a certificate for appointment of counsel was executed. "Appendix L."

Bond is set at $20,000.00 cash/surety.

JUNE 28, 1989 — The defendant was present with his/her Attorney, David Serelson. The state was Represented by Jon R. Forwood. Witnesses were sworn, testimony given. It appearing to the court that there is probable cause that the offense charged was committed by the defendant and that there is probable cause for holding the defendant to answer to the offense, the defendant is ordered bound over to District Court. Bond is reduced to $5000. cash/surety.

I, Robert W. Allen, do hereby certify that I am the duly qualified and acting County Judge within and for Laramie County and State of Wyoming, and that the above and foregoing is a full true and correct transcript of the proceedings in the above case at it appears on record in my office in Docket CR-8906, page 0037.

Given under my hand and seal this 29th day of June, 1989.

s/ Robert W. Allen
COUNTY JUDGE

Enclosed:
1 Criminal Complaint
1 Criminal Warrant
1 Affidavit for Court Appointed Attorney
1 Certificate and Order Appointing Counsel
2 Order setting Preliminary Hearing
1 Tape